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# STRATEGY RESEARCH PROJECT

ACTS OF MAN — ACTS OF GOD.
WHO SHOULD MANAGE THE MILITARY RESPONSE?

BY

**COLONEL JANET A. ROBINSON United States Air National Guard** 

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#### **ABSTRACT**

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Currently, requests to DoD for support in the aftermath of a natural disaster are made through the Executive Secretariat to the Army's Director of Military Support (DOMS). Should a domestic terrorist attack occur, which uses chemical, biological, radiological, nuclear, or high-yield explosive weapons (CBRNE), DoD has determined that the request may require special management and, as a result, would route the request to the Joint Staff. This paper analyzes the existing procedures to request military assistance for supporting civil authorities in the aftermath of both a natural disaster and a domestic CBRNE event. Recommendations are then made to improve the efficiency and effectiveness of those procedures.

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#### ACTS OF MAN - ACTS OF GOD. WHO SHOULD MANAGE THE MILITARY RESPONSE?

Make no mistake: keeping America safe in such a world [the new national security environment] is a challenge that's well within our reach, provided we work now and we work together to shape budgets, programs, strategies and force structure . . ..

— Secretary of Defense Donald Rumsfeld

January 2001 was the beginning of a new millennium and, more importantly, a new administration. A new National Security Strategy (NSS) will be published and with it, the Department of Defense (DoD) will articulate the resulting National Military Strategy (NMS). Executive Orders and Presidential Decision Directives will be reviewed and revised to reflect the evolving strategy.<sup>1</sup> At the DoD level, Secretary of Defense Rumsfeld will shape that effort and ensure that DoD policies and organizational structures provide effective ways and efficient means to accomplish the national objectives.

President Bush has already indicated that protecting Americans from terrorists' threats and acts will be one of his top priorities. The questions surrounding the National Missile Defense program will get much of the press, but unless the new NSS and NMS are radically different, DoD will continue its role in providing support to the civilian community in the aftermath of domestic disasters, whether they stem from an act of God or from a terrorist threat or attack. One might also posit that some military units may be remissioned or dual-missioned to provide that domestic support.

This paper will look at the current administrative processes DoD uses to provide support during a domestic emergency, whether natural or man-made, and analyze an alternative process – that of assigning executive agency responsibilities for all domestic hazards to the Assistant to the Secretary of Defense for Civil Support (ATSD-CS). What is the most efficient way to accomplish DoD's strategic objectives?

The current NMS states that our country is likely to face direct threats to the homeland, which "may exceed the capability of other forces and require the use of military forces . . . . In addition, military resources will continue to support civil authorities in executing missions such as civil works, disaster relief, and domestic crises." It is reasonable to assume that this basic tenant will remain in the new NMS. The Bremer Commission, the Gilmore Commission, and the recent Phase III Report of the U.S. Commission on National Security/21st Century, all verify that terrorist attacks on the U.S. homeland are a major concern.

It is also reasonable to assume that DoD will remain a supporting agency to other federal agencies and civil authorities. DoD's mission is to respond to state and local requirements, while protecting the constitutional rights of the citizenry. What is the most efficient and effective way to meet that requirement? Currently, the Secretary of the Army (SecArmy) serves as the Executive Agent (EA) for Military Support to Civil Authorities (MSCA). DoD Directive 3025.1 states that the SecArmy in his role of Executive Agent for MSCA, "shall provide a mechanism to facilitate continuous and cooperative civil and military planning and preparedness to mobilize all appropriate resources and capabilities of the civil sector and the Department of Defense, whenever required for any form of national security emergency." That directive was written in 1993 before the Oklahoma City bombings and before the attack on the World Trade Center in New York City. Those events provided a national wake-up call to address the safety of the homeland. It also provided DoD with the impetus to examine its role in military support to state and local governments should a terrorist threaten to or actually attack targets within the United States.

In 1997, DoD issued its directive on Military Assistance to Civil Authorities (MACA). MACA was defined as not only MSCA activities, but also included DoD support for "civil disturbances, counterdrug, sensitive support, counterterrorism, and law enforcement." By directive, the SecArmy was named the Executive Agent for MACA (as well as MSCA) and exercised that authority through the Army's Director of Military Support (DOMS).

In 2000, memoranda from the SecDef addressed the issue of who should be responsible for the administrative procedures implementing MACA. The final result was that the SecDef withdrew the Executive Agent status from the SecArmy and retained for himself the responsibilities for the military's support to civil authorities in the event of a chemical, biological, radiological, nuclear, or high explosive (CBRNE) incident, stemming most probably from a terrorist attack. He left the remaining MACA responsibilities to the SecArmy. The resulting policy required that any request for DoD resources to support state and local governments would first have to be reviewed by the Executive Secretary (ExecSec). If found to warrant special management, the ExecSec is to task the Joint Staff (JS) to issue orders for the operations. If special handling management is not required, DOMS will handle the request for assistance (RFA).

Dividing the military support responsibility between DOMS and the Joint Staff may create a bifurcated response capability that is not an efficient use of DoD personnel and resources. One solution is to consolidate the process by dividing the strategic and

operational responsibilities for all continental United States (CONUS) domestic disasters (whether natural or man-made) between the ATSD-CS and the JS.

In order to understand the complex nature of DoD's military assistance to states and municipalities, this paper will first summarize some of the more important statutes and policies that guide DoD's response for natural and man-made disasters, including CBRNE events. It is important in this review to understand that DoD does not act autonomously, but must follow statutes and prescribed federal guidelines. The analysis will then look at the steps involved in providing military support to domestic civil authorities for natural disasters and for the consequence management (CoM) phase of a domestic terrorist attack. Certain deficiencies will be obvious. The paper will then look at an alternative process for providing support that ensures civilian oversight and make appropriate recommendations.

An analysis of the processes in place for responding to domestic civil disturbances, counterterrorism operations, counterdrug support, or sensitive support operations is outside the scope of this paper. And, as indicated earlier, in an effort to narrow the focus of the analysis, the paper will deal only with military support within CONUS. The Commanders in Chief (CINCs) of Southern Command (SOUTHCOM) and Pacific Command (PACOM) are responsible for the contingency plans for consequence management within their areas of operation.

# WHAT ARE THE CURRENT FEDERAL GUIDELINES, STATUTES, AND POLICIES THAT GOVERN DOD'S DOMESTIC DISASTER SUPPORT ROLE?

A 1988 Executive Order, the Stafford Act, and the Federal Response Plan (FRP) have been the backbone for the federal government's assistance to state and local authorities during a disaster that overwhelms their capabilities. The structure has developed over time and has proven an effective mechanism for the federal government to provide assistance to state and local governments in a timely and efficient manner when overwhelming natural disasters occur. It includes a prescribed role for the military – one of support to the other federal agencies. The structure is based on the Incident Command System (ICS), a system developed in the firefighting community. While providing unity of command, it places military personnel in a support role to other responders.<sup>12</sup>

#### **EXECUTIVE ORDER 12656**

Executive Order 12656, "Assignment of Emergency Preparedness Responsibilities," was initially published in November 1988. It essentially laid out a national emergency

preparedness policy and assigned responsibilities to over 40 agencies "to mobilize for, respond to, and recover from a national security emergency." It applies to overseas emergencies as well as those within the continental United States (CONUS). Specific responsibilities for each federal agency are delineated, with DoD responsible to coordinate with other agencies in providing a number of support functions. Specifically, it tasks the SecArmy to develop plans (with the concurrence of other agencies) "for the management, control, and allocation of all usable waters from all sources within the jurisdiction of the United States." DoD's support responsibilities include: assisting in the restoration of community services and developing plans for civil-military support.

#### THE ROBERT T. STAFFORD DISASTER AND EMERGENCY RELIEF ACT

Under the Stafford Act, the President may declare an emergency, which directs any agency in the federal government to aid state and local governments in responding to major disasters or emergencies. A governor may also request a major disaster declaration under the Act, which occurs when state and local agencies are overwhelmed. The federal government may then step in and provide assistance on either a reimbursable or non-reimbursable basis. The Stafford Act codifies the responsibilities of a Federal Coordinating Officer (FCO), who appraises the type of relief that is needed, establishes field offices and coordinates the relief effort. It also describes the role of state coordinating officers (SCO) and emergency support teams. The FCO, as the President's representative, holds the federal checkbook to disburse disaster relief funds to not only governmental entities, but also to individuals and families affected by a disaster. The disaster field offices (DFOs) are made up of personnel from a variety of federal agencies. Non-governmental organizations are also part of the federal effort, e.g. the American National Red Cross and the Salvation Army.

#### PRESIDENTIAL DECISION DIRECTIVES 39 AND 62

After the bombing incidents in Oklahoma City and New York City, President Clinton issued Presidential Decision Directive (PDD) 39 that defined existing lead agency responsibilities for all domestic counterterrorism efforts and designated the Department of Justice as the lead federal agency (LFA) for crisis management activities <sup>17</sup> and the Federal Emergency Management Agency (FEMA) as the LFA for consequence management. <sup>18</sup> The PDD specified that the nation's counterterrorism strategy included: denying terrorists their target, ending any crisis, and managing the consequences of any

attack. DoD was given the authority to support the federal response involving threats of or acts of terrorism involving weapons of mass destruction.<sup>19</sup> PDD 62 reiterated that FEMA had the responsibility for leading any domestic consequence management efforts; it also provided for a number of interagency working groups to improve coordination among the myriad of governmental agencies.<sup>20</sup> FEMA responded to this directive with an updated Federal Response Plan (FRP) in 1999 and a concept of operations in Jan 2001.<sup>21</sup>

#### FEDERAL RESPONSE PLAN

FEMA uses the Federal Response Plan to coordinate all federal assistance to state and local governments for any major disaster or emergency declared under the Stafford Act. Although it is easy to think of the federal government (and DoD in particular) as the savior in the event of a major domestic disaster, the illustration below emphasizes that the federal government is only one of many entities that make up the nation's response capability. In fact, it is generally thought to be the resource of last resort. When support is requested it may come from FEMA; the Department of Health and Human Services; The Departments of Energy, Agriculture, or Transportation; or the Environmental Protection Agency, to name a few.

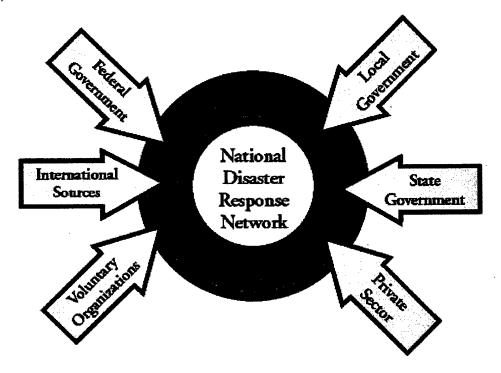


FIGURE 1: NATIONAL DISASTER RESPONSE NETWORK<sup>22</sup>

In addition to using the FRP as the basis for the National Disaster Response Network, PDD-39 authorized FEMA to use the FRP to provide the framework for providing response to the consequences of domestic terrorism. Section D, of the FRP terrorism annex, addresses consequence management under those circumstances.

There is one overriding difference between a natural disaster and one that is manmade. Terrorism acts within the United States are treated as law enforcement issues and as such, the Department of Justice has jurisdiction for Crisis Management (CM). There is often a fine line between crisis and consequence management (CoM); they do not occur consecutively, but often concurrently. Esséntially, CM is a law enforcement action that "involves measures to resolve the hostile situation, investigate, and prepare a criminal case for prosecution under federal law." The federal government has the primary responsibility for CM. CoM, simply stated, is mitigating the effects of a disaster, and state and local governments have the primary responsibility for this activity. The overlap is by design and illustrates the importance of communication among interagency partners. The illustration below points out the overlapping (and sometimes confusing) distinction between the two.

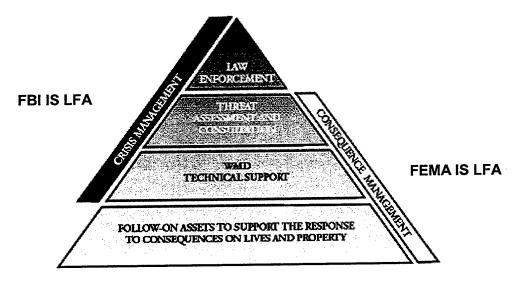


FIGURE 2: RELATIONSHIP BETWEEN CRISIS AND CONSEQUENCE MANAGEMENT<sup>24</sup>

Much of DoD's CoM support will be the same whether it is a natural disaster or a CBRNE event because its response capabilities are built on wartime skills such as the ability to mobilize quickly and provide mobile logistical support. The military's engineering

capability, its water purification and medical units, its transportation assets, and food distribution experience would be among the most important capabilities that DoD would provide regardless of the kind of disaster. Should a CBRNE event occur, DoD would have the added technical expertise to provide support in chemical and biological detection, ordnance disposal, and personal decontamination. These functions are all delineated in the FRP.<sup>25</sup>

Under the FRP, types of federal support to state and local governments are organized under 12 Emergency Support Functions (ESFs), each with a designated primary agency. They include: Transportation, Communications, Public Works and Engineering, Firefighting, Information and Planning, Mass Care, Resource Support, Health and Medical Services, Urban Search and Rescue, Hazardous Materials, Food, and Energy. DoD is the lead agency for Public Works, such as river levies and flood control systems, and serves in a support capacity for the remaining ESFs. DoD is expected to provide support only when the support would not interfere with DoD's requirement to respond to operational contingencies. <sup>26</sup>

According to the FRP, DoD exercises its responsibilities in the following manner. The Director of Military Support (DOMS) receives all requests for military support. A Disaster Field Office (DFO) is established in each affected State; its focus is the coordination of the federal response with state efforts. The FCO and SCO are located in the DFO, along with other federal regional representatives and state and local liaison officers.

The DFO relies on interagency operational structure, based on a model developed from the fire and rescue community. The ICS provides common terminology, organizational structure, communications capability, unified command structure, and comprehensive resource management, all of which are so vital to any multi-agency endeavor. It is not a battlefield command and control structure – something important for military support personnel to remember.

When it is apparent that a DFO will be established within CONUS, the Commander in Chief (CINC), Joint Forces Command (JFCOM) directs the Commander of Forces Command (FORSCOM) to appoint a DCO for each FCO. The individual is most often an Army colonel, who is a Training Support Brigade Commander. During that assignment, the Commander is permanently designated as the DCO for his/her multi-state region. The DCO is a member of the Emergency Response Team and coordinates use of DoD assets with the FCO.

A Defense Coordinating Element (DCE), composed of administrative staff and liaison personnel, including the Reserve component Emergency Preparedness Liaison Officers (EPLOs) specifically assigned to the state in question, supports the DCO. The EPLOs serve as the primary interface between their services' planning agent and the DCO.<sup>27</sup> There are over 300 hundred Air Force, Navy, and Army Reserve EPLOs assigned to FEMA regions and National Guard State Headquarters. When requests for military support arise at the DFO level, they are processed through the DCO to DOMS. If nonroutine, DOMS facilitates resolution of the issues at the national level.

DoD may establish a temporary Joint Task Force (JTF) or Response Task Force (RTF) (as opposed to a standing task force) to consolidate and manage supporting operational military activities if the size of the disasters warrants. Both multi-service organizations are temporary and formed to provide a consequence management response to a major disaster or emergency. A JTF or RTF commander exercises operational control of all allocated DOD assets to provide military support based on mission assignments received through the DCO.

The current FRP was published in 1999 before DoD reorganized its approach to providing military support for disasters. Nonetheless, it is instructive to consider that the use of military support is provided for in the FRP. DoD is not in charge, nor does it respond without a request for support. FEMA is in charge of consequence management activities, and the military is only one of many supporting agencies.

DoD has supplemented the interagency policies with its own operational guidelines. All have refined the development of DoD's role in MACA. It is the process by which DoD provides the requested assistance, not the employment of the assets that is addressed in this paper.

#### UNIFIED COMMAND PLAN

Goldwater Nichols required the Chairman of the Joint Chiefs of Staff (CJCS) to review the evolving security environment every two years. With the growing concern over asymmetrical warfare and the increased probability of a terrorist attack within CONUS, the CJCS issued the Unified Command Plan for 1999 (UCP-99), which redesignated U.S. Atlantic Command as U.S. Joint Forces Command. Further, it tasked the CINC JFCOM with the responsibility for "providing, within CONUS, military assistance to civil authorities (including consequence management operations in response to nuclear, radiological,

chemical, or biological weapons of mass destructions incidents) . . . subject to Secretary of Defense approval."<sup>28</sup>

It also tasked the CINC JFCOM to establish a standing Joint Task Force for Civil Support (JTF-CS) to provide MACA for the consequence management portion of a domestic CBRNE attack. Its responsibility was envisioned to serve as the primary domestic DoD command and control element for the "planning and execution of military assistance to civil authorities for domestic consequence management operations as a result of a weapons of mass destruction (WMD) incident." The Commander, JTF-CS, a two-star Reserve component member, reports through the CINC JFCOM to the SecDef.

## ASSISTANT TO THE SECRETARY OF DEFENSE FOR CIVIL SUPPORT

In October 1999, the SecDef established the Office of the Assistant to the Secretary of Defense for Civil Support (ATSD-CS) to exercise policy oversight for all domestic WMD consequence management support.<sup>30</sup> The incumbent serves as the principal staff assistant and civilian advisor to the SecDef and DepSecDef. As such, she also supervised all policy, resources and programs related to DoD's response to a domestic CBRNE event. This caused concern in some circles as someone who was neither a Presidential appointee nor an individual approved by the Senate had the authority to task a CINC. Soon after, as was mentioned earlier, the SecDef withdrew the Executive Agency status for WMD consequence management from the SecArmy and retained that authority for himself.<sup>31</sup>

The result of this reorganization paved the way for the current response structure. It was developed to ensure civilian oversight for the domestic deployment of DoD assets, but did so without considering the effects of the resulting division of labor on the efficiency or effectiveness of the existing administrative process. That in mind let us now look at the processes used to provide a military response for a natural disaster as opposed to providing support for a CBRNE incident.

# HOW DOES DOD RESPOND TO A NATURAL DISASTER?

According DoD Directive 3025.15, a request for military support is made to the Army's Director of Military Support (DOMS). In actuality, however, the Aug 10, SecDef's memo requires all requests for DoD support to be made to the ExecSec (or forwarded to him should they come into other offices), who then determines the appropriate routing. If a natural disaster, the request will be given to DOMS for processing. The DOMS, an active component Army major general, ensures the joint planning and coordination of all MSCA

activities. He is dual-hatted as the Army's Director of Operations, Readiness, and Mobilization, and his deputy is a National Guard brigadier general.

DOMS reviews the request to ensure it is legal, to determine whether or not lethal force may be used against DoD responders, to ascertain the risk involved, to evaluate the monetary cost to DoD, to ensure the mission is an appropriate use of DoD assets, and to evaluate whether or not the mission will impact DoD's readiness.<sup>32</sup> DOMS coordinates with the Director of Operations on the Joint Staff (J-3) to discuss recommended courses of action. All requests that will require CINC-assigned forces and equipment must be coordinated with the CJCS. This evaluation does not apply to National Guard assets used in Title 32 status. But, because the use of the Guard may result in national media attention, DOMS does keep the CJCS and SecDef advised of their participation.<sup>33</sup>

If CINC-assigned forces are not needed, DOMS submits the request with recommended orders to the SecArmy for tasking. If approved, the SecArmy may task the Services directly. If the use of CINC-assigned resources is required, DOMS develops the execute orders and coordinates the orders within DoD and the SecArmy and then forwards the request through the CJCS to the SecDef for approval. Once approved by the SecDef, the CJCS verifies the approval, and DOMS issues the orders to FORSCOM through JFCOM for execution.

Within CONUS, FORSCOM executes military support for natural disasters through the First and Fifth Armies. They liaise with appropriate governmental (federal, state, and local) agencies to provide plans for disaster relief. The Air Force and Marine Corps also have regional planners to assist in MACA efforts.<sup>34</sup> It is instructive to reiterate that the process within SOUTHCOM (responsible for Puerto Rico and the Virgin Islands) and PACOM (responsible for HI, AK, Guam, etc.) is somewhat different. This paper limited its discussion to generic CONUS responsibilities only.

The processes described above are administrative in nature. The military, DOMS in particular, stays involved throughout the process of executing DoD's responsibility under the FRP. Responsibilities for the U.S. Transportation Command, the U.S. Army Corps of Engineers, and the Defense Logistics Agency are separate from this response mechanism.<sup>35</sup> They are noted here, however, to point out the joint nature of any response mechanism.

# HOW DOES DOD RESPOND TO AN INCIDENT INVOLVING A CBRNE EVENT?

The final draft of the Chairman of the Joint Chiefs of Staff Instruction, CJCSI 3125.01, and "Military Assistance to Domestic Consequence Management Operations in Response to a Chemical, Biological, Radiological, Nuclear, And High-Yield Explosive Situation" provides the current steps for DoD to support civil authorities.<sup>36</sup> If the CBRNE event is accidental in nature, such as an inadvertent release of a particular agent, DOMS may well handle the response using normal MACA procedures. If the event was deliberate, special management procedures apply. The FORSCOM "Domestic Emergencies Handbook" lists some of the reasons that might be considered when determining if special management is needed: the length of the triggering event (a tornado vs. a persistent biological exposure), media coverage, the likelihood for panic, and the possible requirement for an accelerated response.<sup>37</sup>

All official requests for DOD support for a CBRNE incident are made to the DOD Executive Secretary (ExecSec). The Deputy Secretary of Defense (DepSecDef) makes the final determination on whether or not the situation warrants special management. If required, the Joint Staff Operations Division becomes the office of primary responsibility (OPR) and forwards orders to the appropriate CINC, (most likely JFCOM), under the policy oversight of the ATSD-CS. If DOMS is the office primary responsibility, it forwards orders to the appropriate CINC (with JS approval) also under the policy oversight of ATSD-CS.

It is important to remember that time is of the essence after a CBRNE event. Local responders will be the first on the scene and will implement the ICS. The DCO will most likely still be the first DOD representative on site. Although the DCO may be supplanted by the JTF commander as the senior DOD representative, the DCO will continue to exercise the DFO staff function of mission assignment coordination and validation, and will act as a liaison between the DFO staff and the JTF staff. This differs from the normal natural disaster response in that, as specified in UCP 99, the JTF-CS may be deployed in the case of a WMD event.

If the JTF is deployed, the commander will have operational control of all designated DOD forces, including the DCO, DCE, and EPLOs. (National Guard troops serving in title 32 status are not included within his command and control.) Among his responsibilities is the accountability of DoD forces and the necessity to keep higher headquarters informed. Ostensibly this will be through CINC JFCOM to the SecDef. A number of additional assets might also deployed depending on the situation (including National Guard Civil Support

Teams and Marine Corps Chemical Biological Incident Response Force) but their deployment is outside the scope of this paper.

## WHAT ARE THE PRIMARY DIFFERENCES IN THE TWO SYSTEMS?

There are three main differences in the two processes that may or may not affect the efficiency and effectiveness of the response capability. The first is "Who receives the outside request for DoD assistance?" The current DoD policy (a written memorandum signed by the previous SecDef vice a DoD Directive) states that the ExecSec will receive all requests and determine if special handling is needed. The FRP does not reflect that change and states that DOMS receives all requests. The Exec Sec has three options. If a natural disaster, the request goes to DOMS. If a CBRNE event, the ExecSec will task the JS if special management is required, or DOMS, if no special management is warranted.

The second difference is "Who reviews the request for its legality, lethality, etc?" CJCSI 3125.01 is silent on that issue, only saying that if the situation does not require special management, then the SecArmy will execute the normal MACA procedures through DOMS.<sup>38</sup> Given the importance of the review, it is assumed that this step has been overlooked in current written guidance.

The third difference involves the issuing of orders. Timeliness is paramount when providing a response capability. As was described, DOMS is required to follow separate operating procedures based on the type of forces that will be tasked.

The role of the ATSD-CS in natural disasters has yet to be defined. But, if providing consistency in the process and a strong message of civilian oversight is important, this role may need to be expanded.

#### ARE THE CURRENT PROCEDURES EFFECTIVE AND EFFICIENT?

The Random House unabridged definition of "effectiveness" is, that which is able to produce a desired effect. "Efficient" is defined as the skillful accomplishment of desired results with little wasted time and effort. It is also defined as having and using requisite knowledge.

The desired end state for any effective and efficient response capability, then, includes the ability to provide a timely and appropriate response to requests for DoD assistance within an established statutory and policy-defined framework. Does the current system provide an effective way to accomplish the ends using efficient means?

The natural disaster response process has evolved over some 20 years and has been formalized through the Stafford Act and the FRP. Lines of communication are clear,

responsibilities defined, and experience has shown it to be effective and increasingly efficient. States and municipalities, if overwhelmed, generally turn to the federal government for financial and resource assistance. That need is constant regardless of the type of disaster. Why change a system that works?

The issue of civilian oversight of military actions was perhaps the trigger concern. Shortly before UCP-99 was published, concerns over a CINC U.S. were voiced by a variety of civil libertarians, reported in newspapers, and addressed in editorials. DoD needed to ensure that any procedures to provide assistance to state and local agencies provided for absolute and public accountability. A civilian ATSD-CS position would provide that assurance.

The civilian accountability factor is paramount. It is this function that differentiates the office from DOMS. If organized correctly, the office of ATSD-CS could limit its focus strictly to civil support functions – approving policy, representing DoD at interagency working groups, ensuring appropriate resourcing, and providing direct access to the SecDef and DepSecDef. Locating this capability at this level also separates the policy function from foreign consequence management efforts, which play by an entirely different set of rules.<sup>39</sup> The door to revising the response process was opened when the ATSD-CS office was established. A tentative vision was created; it's now time to flush out the details.

The current process of channeling all requests for assistance to the ExecSec is not efficient. The office handling these requests is comprised of four officers, one from each of the Services. Among the four of them, they keep abreast of every activity within the Department of Defense.<sup>40</sup> If one of them has any requisite knowledge in MACA, it is more by accident rather than based on any staffing requirement.

The second issue is the review of the request for legality, risk, and cost. It is at this juncture that it would seem civilian oversight is the most important. In natural disasters, DOMS provides the review. In incidents involving special management, the CJCSI is silent on the review process, arguably one of the most important steps in the process. If you take DOMS out of the loop during a deliberate CBRNE event, do you inject their review capability? If you do not use their extant experience, you are inviting duplication of effort.

The remaining issue is the issuance of orders. DOMS is required to coordinate all orders with the JS to ensure the availability of CINC-assigned forces. Arguably, for the sake of efficiency, the CJCS should task JFCOM to issue all orders to its Service

components as appropriate. This would reinforce the UCP's tasking to JFCOM to provide MACA support within CONUS and eliminate the need for DOMS to coordinate with JS before issuing orders.

The new response process for CBRNE events has yet to be tested in an actual event, where there is little room for error. Will it produce the desired results?

#### IS THERE AN ALTERNATIVE RESPONSE PROCESS?

The recent Phase III Report of the U.S. Commission on National Security/21<sup>st</sup>
Century says that the existing bifurcation "does not provide clear lines of authority and responsibility or ensure political accountability." An alternative administrative response mechanism would be to name the ATSD-CS as the SecDef's Executive Agent (EA) for all MACA actions requiring military support to state and local governments. This would make no distinction between natural or man-made disasters and would include both accidental and deliberate use of CBRNE devices.

As envisioned, the office of the ATSD-CS would receive all requests for assistance, do the initial review for legality, lethality, etc., and determine if special management was needed. After this oversight responsibility had been executed, the ATSD-CS would task the CJCS to ensure proper coordination among the Services and to approve any CINC-assigned forces for response to a domestic emergency. By taking DOMS out of the execution chain, the process would experience greater efficiencies.

As the EA, the office of the ATSD-CS would develop the strategic doctrine for domestic support and ensure that the JS developed operational plans, training, and policies for domestic consequence management and that they incorporated them into the Joint Strategic Capabilities Plan (JSCP). The CJCS would also ensure that all Services have assigned units to support the Lead Federal Agency, during a domestic crisis.

Conceivably the National Guard brigadier general that now serves as the Deputy Director of DOMS could serve as the deputy ATSD-CS. The visibility of the Guard at this level might help to encourage force providers to further integrate the Reserve components into the defense of the homeland mission. This would include not only the EPLOs and National Guard WMD Civil Support Teams, but also the 15 other mission areas that were identified as possible areas for Reserve component support in a 1988 Tiger Team Report to the SecDef. This is a process that is in itself not revolutionary, but might, in some commands require a revolution in military thinking.

The current DOMS staff could be divided between the ATSD-CS office and the JS through a Program Budget Decision. The JS responsibility would be to oversee the development of operational doctrine for the joint employment of the Services and to task JFCOM for formulating policy for the joint training of all forces scheduled to provide assistance to local responders, including Reserve component forces. JFCOM would also ensure legal, engineering, medical, and public affairs support was available for any response operation, as well as ensure the appropriate training for those resources.

This process envisions JTF-CS as the primary command and control headquarters for a CBRNE event. If a second event occurred, an RTF would respond with a Joint Planning Augmentation Cell (JPCA). The command and control headquarters for a natural disaster would remain as it is today – if of sufficient magnitude one of the RTFs would deploy; if not, the DCO would manage federal DoD assets.

Additionally, the JTF-CS would play an integral part in tactical doctrine and joint exercise development – all within the purview of Joint Forces Command. This would also ensure that crisis action planning was consistent across domestic CBRNE emergencies when appropriate, yet tailored to meet each required response.

#### RECOMMENDATION

The first recommendation, alluded to at the beginning of the paper, is to assign to the military the role of providing support to the interagency community in the aftermath of a domestic disaster. This assumes that consequence management support would be provided only upon request. Mission objectives could then be developed and properly resourced.

Efficiency and effectiveness come from unity of effort. This is particularly true when orchestrating an interagency response effort, and DoD's domestic response will always be in support of the interagency process. This unity translates to a single entry point for requests for assistance and clear lines of communications throughout the process. It also requires a consistency in operating procedures, which is arguably missing in the current process. In an area where response time is of the essence, knowing how to request assistance from DoD is critical.

Based on those assumptions, this paper recommends moving all Executive Agent responsibilities for domestic disaster-related response efforts to the ATSD-CS. Based on the importance of civilian oversight, a second, but less desirable option would be to move

all response efforts to DOMS. What is not appropriate is the current bifurcated effort. Why, then, the ATSD-CS?

The ATSD-CS would provide the critical civilian oversight for employment of military forces within CONUS – regardless of the type of disaster. Current MACA procedures were established before Goldwater Nichols made the CJCS responsible for translating the NSS into joint military doctrine, plans, and training. The CJCS is further responsible to tie the results of that planning to military operations. Dividing the administrative procedures between the ATSD-CS and the JS would ensure each office focuses on its area of expertise.

In addition to the initial oversight responsibilities, the ATSD-CS would also concentrate on the extensive interaction with other federal agencies that will no doubt evolve as the new NSS is developed. The JS, given the strategic vision from the ATSD-CS, would review Service programs to ensure the efficient use of people, facilities, and supplies. The JS is ideally situated to ensure domestic consequence management is incorporated into the Joint Strategic Planning System (JSPS). Federal support to local authorities to assist in the management of the consequences of a disaster, whatever form it takes, will continue to involve military forces. It is critical that this capability is included in the operational planning and resourcing of the Services.

In addition to improving the functionality of the administrative process, assigning EA responsibilities to the ATSD-CS might also provide a more efficient resourcing strategy for this mission. Absent a geographic CINC for CONUS, the ATSD-CS would play a vital role in ensuring that homeland security objectives are identified, resourced, and exercised. The ATSD-CS is in a far better position to integrate these requirements into Service budgets than is DOMS. Further, the ATSD-CS and the Chairman can recommend Service budget adjustments when they fail to adequately compete homeland security needs with larger programs within the Services. The recent DoD Inspector General Audit Report shows that the current system lacks adequate discipline to field the WMD Civil Support Teams.<sup>43</sup>

Another critical tool to support this capability is the Joint Strategic Capabilities Plan (JSCP), which the SecArmy as EA has not optimized. Homeland security initiatives stand only to benefit from inclusion in the JSCP, which would aid in the development of deliberate and contingency plans. Both the Active and Reserve component forces are apportioned within the JSCP; this might improve the use of Reserve component forces in MACA scenarios by at least giving higher visibility to their capabilities.

If the JS were tasked with operational responsibilities for MACA, early input into the Joint Planning Document (JPD) might occur, which could, in turn, influence the Defense Planning Guidance (DPG). Another advantage is the inherent capability for joint mobilization planning within the JS. This integrated approach to determining which functional areas would be used in a MACA response could greatly facilitate the approval process so needed to deploy CINC-assigned forces.<sup>44</sup>

This recommendation provides the most efficient and effective procedure to process requests for military assistance to domestic civil authorities. It provides unity of command and unity of effort within the established statutory framework and assigns strategic, operational, and tactical responsibilities where appropriate.

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#### **ENDNOTES**

- <sup>1</sup> For example, National Security Presidential Directives now replace both Presidential Decision Directives and Presidential Review Directives to communicate President Bush's decisions about the national security policies of the United States.
- <sup>2</sup> John M. Shalikashvili, *Shape, Respond, Prepare Now: A Military Strategy for a New Era* (Washington, D.C.: The Joint Chiefs of Staff, 1997), 6.
- <sup>3</sup> Report of the National Commission on Terrorism: Countering the Changing Threat of International Terrorism, by L. Paul Bremer, chairman (Washington, D.C.: The Terrorism Research Center, June, 2000), 7.
- <sup>4</sup> Toward A National Strategy for Combating Terrorism. Second Annual Report to The President and The Congress Of the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction, by James S. Gilmore, III, chairman (Washington, D.C.: RAND, December 2000), 1.
- <sup>5</sup> Road Map for National Security: Imperative for Change. The Phase III Report of the U.S. Commission on National Security/21st Century, by Gary Hart and Warren B. Rudman, co-chairs (Washington, D.C.: U.S. Commission on National Security/21<sup>st</sup> Century, January 2001), 2.
- <sup>6</sup> Joint Publication 3-07 defines Military Support to Civil Authorities (MSCA) as "those activities and measures taken by the DoD Components to foster mutual assistance and support between the Department of Defense and any civil government agency in planning or preparedness for, or in the application of resources for response to, the consequences of civil emergencies or attacks, including national security emergencies." GL-4.
- <sup>7</sup> Department of Defense, *Military Support to Civil Authorities (MSCA)*, DoD Directive 3025.1 (Washington D.C.: Washington Headquarters Service, 15 January 1993), 1.
- <sup>8</sup> MACA is defined in DoDD 3025.15 as "those DoD activities and measures covered under MSCA (natural and manmade disasters) plus DoD assistance for civil disturbances, counterdrug, sensitive support, counterterrorism and law enforcement." E-2.
- <sup>9</sup> Although MSCA and MACA are technically different, the remainder of this paper will use MACA to refer to both the military's support to civilian agencies for natural disasters and its support for the consequence management activities after a domestic terrorist event.
- <sup>10</sup> Secretary of Defense William Cohen, "Management of DoD Operational Response to the Consequences of Certain Incidents Involving Chemical, Biological, Radiological, Nuclear and High Yield Explosives," memorandum for Secretaries of the Military Departments, Washington, D.C., 10 August 2000.
- <sup>11</sup> The Executive Secretary is the "principal OSD official responsible for keeping the Secretary of Defense and cognizant senior OSD officials informed of emergency and routine DoD military assistance requests from civil authorities, and shall be the DoD office of record for all such assistance . . . ." DoDD 3025.15,

- <sup>12</sup> Federal Emergency Management Agency, *Federal Response Plan*, April 1999; available from <a href="http://www.fema.gov/r-n-r/frp">http://www.fema.gov/r-n-r/frp</a>; Internet; accessed 04 January 2001.
- <sup>13</sup> Executive Order No 12656, Assignment of Emergency Preparedness Responsibilities, November 18, 1988, 53 F.R. 47491, p. 1

- <sup>15</sup> The Robert T. Stafford Disaster Assistance and Emergency Relief Act, U.S. Code, vol. 42, secs. 5121 et seq., 1988.
  - 16 Ibid.
- <sup>17</sup> As defined in the draft Chairman of the Joint Chiefs of Staff Instruction (CJCSI) 3125.01, "crisis management includes measures to identify, acquire, and plan the use of resources needed to anticipate, prevent, and/or resolve a threat or act of terrorism. Crisis Management is predominantly a law enforcement function in domestic issues." GL-4.
- <sup>18</sup> Also in the draft CJCSI 3125.01, consequence management "comprises the United States Government Interagency assistance to protect public health and safety, restore essential government services, and provide emergency relief to governments, businesses, and individuals affected by the consequences of a WMD incident. The primary authority to the States to respond; the Federal Government provides assistance as required." GL-4.
- <sup>19</sup> U.S. Presidential Decision Directive 39, *U.S. Policy on Counterterrorism*, June 21, 1995; available from <a href="http://www.fas.org/irp/offdocs/pdd39.htm">http://www.fas.org/irp/offdocs/pdd39.htm</a>; Internet; accessed 12 March 2001.
- <sup>20</sup> U.S. Presidential Decision Directive 62, *Protection Against Unconventional Threats to the Homeland and Americans Overseas*, May 22, 1998; available from <a href="http://www.ojp.usdoj.gov/osldps/lib\_pdd62.htm">http://www.ojp.usdoj.gov/osldps/lib\_pdd62.htm</a>; Internet; accessed 12 March 2001.
- <sup>21</sup> Federal Emergency Management Agency, *United States Government Interagency Domestic Terrorism Concept Of Operations Plan*, January 2001; available from <a href="http://www.fema.gov/r-n-r/conplan/conplan.pdf">http://www.fema.gov/r-n-r/conplan/conplan.pdf</a>; Internet; accessed 12 March 2001.

<sup>23</sup> U.S. Army Forces Command, *Domestic Emergencies Handbook*, 2d ed., (Carlisle, PA: U.S. Army War College, 15 March 1999), 3.

<sup>14</sup> Ibid.

<sup>&</sup>lt;sup>22</sup> Federal Response Plan

<sup>&</sup>lt;sup>24</sup> Federal Response Plan

<sup>25</sup> Ibid.

<sup>&</sup>lt;sup>26</sup> Ibid.

<sup>&</sup>lt;sup>27</sup> Department of Defense, *Military Emergency Preparedness Liaison Officer (EPLO) Program*, DoD Directive 3025.16 (Washington D.C.: Washington Headquarters Service, 18 December 2000), 3.

<sup>28</sup> Unified Command Plan for 1999; quoted in Congress, House, Governmental Reform Subcommittee on National Security, Veterans Affairs and International Relations. *Domestic Preparedness Against Terrorism: How Ready Are We? Hearing before the House Governmental Reform Subcommittee on National Security, Veterans Affairs and International Relations.* 106<sup>th</sup> Cong., available from <a href="http://www.house.gov/reform/ns/hearings/testimony/lawlor327.htm">http://www.house.gov/reform/ns/hearings/testimony/lawlor327.htm</a>; Internet; accessed 13 March 2001.

- <sup>30</sup> Secretary of Defense William Cohen, "Consequence Management Responsibilities within the Department of Defense for Incidents Involving Chemical, Biological, Radiological, Nuclear and High Yield Explosives (CBRNE-CM)," memorandum for Secretaries of the Military Departments, Washington, D.C., 1 April 2000.
  - 31 10 Aug SecDef memo.
- <sup>32</sup> Department of Defense, *Military Assistance to Civil Authorities (MACA)*, DoD Directive 3025.15 (Washington D.C.: Washington Headquarters Service,18 February 1997), 5.
  - <sup>33</sup> Ibid., 4.
  - <sup>34</sup> Domestic Emergencies Handbook, 32-33.
  - <sup>35</sup> Ibid., 28.
- <sup>36</sup> Chairman of the Joint Chiefs of Staff, *Military Assistance to Domestic Consequence Management Operations in Response to a Chemical, Biological, Radiological, Nuclear and High-Yield Explosive Situation*, Final Draft CJCSI 3125.01 (Washington, D.C.: The Joint Chiefs of Staff, 1 December 2000), A-2.

- <sup>39</sup> Section 901 of the National Defense Authorization Act for FY 2001 states that the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict (SOL/LIC) will be responsible for all counterterrorism programs. This paper suggests that an office that focuses on special operations is not the appropriate office to develop policy for responding to domestic disasters; it requires a different set of rules and a different mind-set. Because of that, this paper believes that domestic consequence management activities should be managed out of the ATSD-CS and not SO/LIC.
- <sup>40</sup> Office of the Executive Secretary (ExecSec) of the Department of Defense (DoD) Home Page; available from <a href="http://www.dtic.mil/execsec">http://www.dtic.mil/execsec</a>; Internet; accessed 4 March 2001.

<sup>&</sup>lt;sup>29</sup> Ibid.

<sup>&</sup>lt;sup>37</sup> Domestic Emergencies Handbook, 53.

<sup>&</sup>lt;sup>38</sup> CJCSI, p. A-2.

<sup>41</sup> Hart, Rudman, 63.

- <sup>42</sup> Department of Defense, *Plan for Integrating National Guard and Reserve Component Support for Response to Attacks Using Weapons of Mass Destruction* (Washington DC: Washington Headquarters Service, January 1998), 30-37.
- <sup>43</sup> Office of the Inspector General, *Department of Defense Audit Report, Management of National Guard Weapons of Mass Destruction-Civil Support Teams* (Arlington, VA: Office of the Inspector General, Department of Defense, January 31, 2001), i.

<sup>&</sup>lt;sup>44</sup> Joint Pub 5-0, p. II-13.

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- <sup>1</sup> U.S. Presidential Decision Directive 62, *Protection Against Unconventional Threats to the Homeland and Americans Overseas.* May 22, 1998. Available from <a href="http://www.ojp.usdoj.gov/osldps/lib\_pdd62.htm">http://www.ojp.usdoj.gov/osldps/lib\_pdd62.htm</a>. Internet. Accessed 12 March 2001.